



POLICE DEPARTMENT CITY OF NEW YORK

May 30, 2017

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Christine Narsingh
Tax Registry No. 927336
112 Precinct
Disciplinary Case No. 2014-12819

Charges and Specifications:

1. Said Police Officer Christine Narsingh, while assigned to the 112th Precinct, on or about October 13, 2014, at about 0329 hours, while on duty, in or about the vicinity of Jewel Road and Grand Central Parkway service road, Queens County, having stopped a vehicle at a Department checkpoint being operated by a motorist exhibiting indicia of intoxication, wrongfully failed to take police action to arrest and handcuff said motorist immediately, as directed by Sergeant Rodolfo Rega.

P.G. 203-03, Page 1, Paragraph 2 – Compliance with Orders
General Regulations

2. Said Police Officer Christine Narsingh, while assigned to the 112th Precinct, on or about October 13, 2014, at about 0329 hours, while on duty, in or about the vicinity of Jewel Road and Grand Central Parkway service road, Queens County, having stopped a vehicle at a Department checkpoint being operated by a motorist exhibiting indicia of intoxication, wrongfully was discourteous to Sergeant Rodolfo Rega.

P.G. 203-09, Page 1, Paragraph 2 – Public Contact – General
General Regulations

Appearances:

For the Department: David Green, Esq.
Department Advocate's Office
One Police Plaza
New York, NY 10038

For the Respondent: John Tynan, Esq.
Worth, Longworth & London, LLP
111 John Street - Suite 640
New York, NY 10038

Hearing Dates:

February 3 and March 2, 2017

Decision:

Respondent is found Guilty

Trial Commissioner:

ADCT Robert W. Vinal

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on February 3 and March 2, 2017. Respondent, through her counsel, entered a plea of Not Guilty to the subject charges. The Department called Sergeant Rodolfo Rega and Police Officer Terrence Williams as witnesses. Respondent called Police Officer Michael Castelli as a witness and testified on her own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

After reviewing the evidence presented at the hearing, and assessing the credibility of the witnesses, I find Respondent Guilty of the charged misconduct.

FINDINGS AND ANALYSIS

The following facts are uncontested: On October 13, 2014, Respondent was assigned to the 112 Precinct's first platoon and was performing patrol duties with Officer Michael Castelli. A sobriety checkpoint was established in the vicinity of Jewel Avenue¹ and the Grand Central Parkway service road in Queens (Hereinafter: "the checkpoint") to identify intoxicated and impaired drivers. The checkpoint was supervised by Sergeant Rodolfo Rega, the patrol supervisor. Also present were his driver, Officer Terrence

¹ Both charges incorrectly refer to Jewel Avenue as Jewel Road.

Williams; Officer Michael Castelli; and Respondent. At about 0329 hours, a gray sedan being operated by a male driver was stopped at the checkpoint.

Sergeant Rega testified that the checkpoint was illuminated by the lights of two marked Radio Motor Patrol cars (RMP) and road flares. As he and Respondent approached the driver's door of the grey sedan, Respondent told him, "If the driver is 511, I'll take the arrest," which Rega testified meant that if the driver had a suspended license, she was volunteering to be the arresting officer. (Tr. 24). Rega testified that it was immediately apparent to him that the driver of the gray sedan was intoxicated because he smelled of alcohol, his eyes were bloodshot, his speech was slurred, and his head was swaying from side to side. Respondent asked the driver to hand her his license, registration, and insurance information. Rega told Respondent, "He is not 511. He is intox (intoxicated). He is going to be placed under arrest for DWI." (Tr. 27).

Rega testified that when he directed Respondent to arrest the driver, she began demanding a "cage car," which is a RMP that is equipped with a partition which separates the front seating area from the rear seating area. Rega testified that Respondent raised her voice and stated "This isn't right!" and kept repeating, "I want a cage car!" (Tr. 29-30). Rega testified that he told Respondent to put the driver into the RMP that had been assigned to her and Castelli and that they would work out getting a "cage car," but Respondent "continued throwing a tantrum." (Tr. 30). Rega reminded Respondent that under the Patrol Guide, a prisoner can be transported in a RMP which does not have a partition. Rega testified that he did not believe that a vehicle equipped with a partition was necessary to transport this particular driver because he was not combative and he appeared to be following directions. Rega testified that he directed Respondent to

handcuff the driver at least three separate times. At one point, the driver spit on the ground in the direction his own foot. Rega asserted that the driver did not spit at any of the officers. Eventually, Respondent handcuffed the driver and placed him inside the RMP with Castelli. Rega asserted that he gestured for Respondent to walk over to where he was standing because he wanted to tell her that her behavior was unacceptable, but Respondent stopped in the middle of the road, pointed her index finger at him, and yelled, "This is fucking bullshit!" (Tr. 35-36). Shortly thereafter, Respondent walked back toward her RMP. As she walked away from him, Rega told her that the situation would be dealt with back at the precinct. Respondent then drove off quickly which caused the tires on her RMP to make a "screeching" sound. (Tr. 40).

On cross-examination, Rega confirmed that even though he believed that the driver was intoxicated, he instructed the driver to pull his car over to the side of the road. Rega explained that he did this so that the car would be out of the flow of traffic and because "rolling it over to the side...is not driving on a public road." (Tr. 56). Rega asserted that he "was in a difficult situation trying to get" Respondent "to place someone under arrest" and "things got a little out of control..." (Tr. 60). Rega further asserted that when he "instructed" Respondent "to place him in handcuffs, she turned her back and demanded a cage car and walked away," and that "she didn't want to effect an arrest" and "she didn't listen to anything I had to say." (Tr. 60). Rega testified that he was able to determine that the driver was intoxicated as soon as the driver rolled down the window due to the smell of alcohol emanating from within and his red eyes, but he could not recall if his speech was slurred. He did not ask the driver any questions. He could not recall if a field sobriety test of the driver was conducted at the scene.

Officer Williams testified that when the gray sedan was stopped at the checkpoint, he stood on the passenger side of the vehicle with Castelli while Rega and Respondent approached the driver's side. Respondent and Rega both spoke to the driver, but Williams did not hear what was said. He did not make any observations regarding the physical condition of the driver. The driver pulled his sedan over to the side of the road. Respondent removed the driver from the vehicle and told Rega, "If it's a 511, I'll take it." (Tr. 95). Williams understood Respondent's statement to mean that Respondent would be the arresting officer if the driver had a suspended license. The driver was escorted by Respondent to the rear of the vehicle. Williams noticed that he was unsteady on his feet, his eyes were bloodshot and watery, and he smelled of alcohol.

Williams testified that after Rega "advised" Respondent that the driver "was going to be arrested, that it was going to be her collar, and to put him in handcuffs," "there was hesitation" by Respondent in that "there was a delay in" Respondent "putting the motorist in handcuffs." (Tr. 99-100). Williams recalled that Respondent told Rega "quite a few times" in an "elevated" voice that she wanted "to get a cage car." Rega responded by loudly telling Respondent "more than twice" that he wanted her to handcuff the driver and "immediately place the motorist in the back of the RMP." (Tr. 100-101). Williams testified that during the verbal exchange between Rega and Respondent, which lasted several minutes, he and Castelli were guarding the driver. After the driver was placed in the back of the RMP by Castelli, Respondent and Sergeant Rega had "an extended back and forth." Williams asserted that he heard Respondent "curse at Sergeant Rega," although he could recall the curse that she uttered. (Tr. 103-104). On cross-

examination, Williams testified that he did not see the driver spit and that the driver was not combative and did not resist being arrested.

Officer Castelli testified that when he and Respondent arrived at the checkpoint no road flares, cones, or other safety devices had been set up. He and Respondent agreed that she would be the arresting officer for any arrests they made at the checkpoint. When the gray sedan was stopped at the checkpoint, Respondent obtained the driver's paperwork and they walked over to their RMP to conduct computer checks while the driver remained in his vehicle. One minute later, Rega directed them to return to the sedan. Castelli saw Williams testing the driver using an intoxilyzer. Rega told them that the driver, who was leaning against his vehicle unrestrained, was to be arrested for DWI. Respondent told Rega that she would be the arresting officer and she began handcuffing the driver. When the driver started to spit and drool, Respondent asked Rega if it would be possible to get a cage car to transport the driver because she was concerned that the driver might spit on them. Rega told Respondent to put the driver inside their RMP. She and Castelli escorted the driver to their RMP and placed him in the rear seat. Castelli sat down next to him. Rega called Respondent and she walked over to him. About five minutes later, Respondent returned, told Castelli that they would be transporting the driver to the precinct, and safely drove from the scene. She appeared upset.

On cross-examination, he asserted that Rega never told Respondent to handcuff the driver. Rather, she started to handcuff the driver after Rega said, "You have one under." (Tr. 165-166). Castelli acknowledged that he does not know what Respondent said to Rega after Castelli entered their RMP to watch the driver. When Castelli testified that he heard Respondent ask for a cage car "I think one time," he was confronted with

statements he made at his official interview that "I don't know how many times she asked" for a cage car but "it could have been" more than once. (Tr. 169-170).

Respondent testified that when Rega conducted roll call for the midnight tour he did not announce that a sobriety checkpoint would be established during the tour which "should be done at roll call, but we usually just receive a text message." When she and Castelli received a text message that a checkpoint was being established, they immediately responded to the location. When she and Castelli arrived at the checkpoint, she told Castelli that she would be the arresting officer for any arrests they made there. When the gray sedan approached the checkpoint, it stopped and Respondent informed the driver that they were conducting a vehicle checkpoint and asked for the driver's license, registration and, after learning that it was a rental car, the rental agreement for the vehicle. The initial interaction with the driver lasted ten seconds. Respondent did not smell alcohol on the driver. With the driver's paperwork in hand, Respondent and Castelli walked back to their assigned RMP to perform computer checks on the driver. After about five seconds, Rega asked them to return to the stopped vehicle. The driver had exited the vehicle and Williams was administering a breathalyzer test. Rega then told them that the driver needed to be arrested for DWI.

Respondent smelled alcohol on the driver and noticed that he was unsteady on his feet. Respondent began attempting to handcuff the driver but he was squirming and began spitting. Respondent stepped back to avoid being spat on and then continued to handcuff and search the driver. After he was handcuffed, when Respondent was standing behind him, he spit over his right shoulder and then over his left shoulder. Respondent then asked Rega for a cage car to transport the driver to the precinct. Rega replied, "No.

Why? You afraid of a little spit?" When Respondent replied that she was afraid of the driver's spit, Rega told her to put him into her assigned RMP, which she and Castelli then did. Respondent estimated that only 30 seconds elapsed from the time she began handcuffing the driver until he was placed inside the RMP. Castelli sat down in the back of the RMP with the driver.

As Respondent entered the driver's seat of the RMP, Rega loudly called out her name and said, "Get over here." (Tr. 188). As she walked toward Rega, he informed her that she would be issued a Command Discipline for being discourteous. Respondent testified that she merely replied, "Okay" and then began walking back to her RMP. She testified that she wanted to get back to the RMP because Castelli was alone in the RMP with the handcuffed driver. Respondent testified that Rega was "very defensive" and loudly yelling and pointing at her. (Tr. 189). As she walked away, Rega repeated that the driver had to be transported in their assigned RMP back to the precinct.

Respondent denied that she had refused Rega's order to arrest the driver. Respondent confirmed that she called in to the desk officer to obtain an exposure number because she was concerned that she may have been exposed to a communicable disease as a result of the driver's spitting. Respondent did not inform the Queens District Attorney's Office that Williams had conducted a breathalyzer test at the scene because "you are really not supposed to conduct them in the street unless you're trained to do so." (Tr. 192). On October 21, 2014, Respondent filed a complaint against Rega with the Department's Office of Equal Employment Opportunity regarding their interaction on October 13, 2014. This complaint was determined to be unsubstantiated. Respondent refused to sign the Command Discipline that Rega issued to her.

On cross-examination, Respondent testified that upon her initial approach of the driver at the checkpoint, she noticed that his eyes were red, but did not notice that he was intoxicated until he had been removed from his vehicle. Respondent believed that the driver was spitting to let her know that he was unhappy that he was being arrested. She asserted that she remained calm throughout her entire interaction with Rega. She agreed that even though none of the driver's spit had made contact with her skin, she called the 112 Precinct Desk Officer to obtain an exposure number.

Analysis

Respondent is charged with having failed to immediately arrest and handcuff the driver as directed by Sergeant Rega, and with having been discourteous to Rega. Patrol Guide Procedure No. 203-03(2) requires uniformed members of the service (UMOS) to "obey lawful orders and instructions of supervising officers." As a paramilitary organization, it is imperative that police officers immediately comply with orders issued by supervisors unless an order is illegal or improper. Also, officers must always address supervisors in a courteous manner, even where a supervisor has refused to grant an officer's reasonable request, and officers are never permitted to curse at supervisors.

Here, Respondent did not contest that the driver exhibited indicia of intoxication and, thus, she did not assert that Rega's order that she handcuff the driver and place him in her RMP was improper. Also, although Respondent asserted that Rega unreasonably refused to grant her request to be allowed to transport the driver to the precinct in a "cage car," rather than in her un-partitioned RMP, she denied that she had hesitated or delayed before complying with Rega's order that she immediately handcuff the driver and put

him inside her RMP, and she denied that she had been discourteous to Rega by directing profanity at him.

Rega testified that he had to order Respondent at least three times to handcuff the driver before she finally complied, and that while they were standing in the street Respondent yelled, "This is fucking bullshit!" at him. I credit Rega's testimony that Respondent failed to immediately comply with his order that she handcuff the driver and that she cursed at him, because this testimony was corroborated by Williams. Williams testified that after he heard Rega order Respondent to arrest and handcuff the driver, "there was hesitation" by Respondent and "a delay in the officer putting the motorist in handcuffs." (Tr. 99-100). Williams further testified that Rega had to order Respondent "more than twice" to handcuff the driver and to "immediately place the motorist in the back of the RMP." (Tr. 100-101). Williams also corroborated Rega's claim that Respondent had been discourteous to him by directing profanity at him. Williams recalled that he heard Respondent "curse at Sergeant Rega," although he could not recall the specific curse word that she had used. (Tr. 103-104).

Although Williams had previously served as Rega's driver and had worked at other checkpoints supervised by Rega, (Tr. 109), the record is devoid of any motive or reason Williams had to falsely testify under oath that Rega had to order Respondent more than twice to handcuff the driver and place him into her RMP or his claim he heard Respondent curse at Rega. Respondent offered no reason why Williams, a fellow officer, would offer false testimony against her or why he would lie to support Rega's testimony.

Respondent's attorney argued that Rega's testimony should not be credited because Respondent and Castelli testified that the sobriety checkpoint that Rega

established was not announced at roll call; that it was unsafely set up and conducted; that Williams improperly administered a breathalyzer test; and that the driver's car was improperly left at the scene. However, even if these facts are true, they do not serve to refute Rega's testimony, as corroborated by Williams, that Respondent engaged in the charged misconduct, and they do not serve to excuse, justify or even mitigate Respondent's action of committing the charged misconduct.

Although Respondent's partner Castelli supported Respondent's claim that she started to handcuff the driver immediately after Rega ordered her to do so, the reliability of Castelli's testimony that Respondent promptly complied with Rega's order must be examined in light of his testimony regarding how many times she had asked Rega for a cage car. Castelli testified at this trial that Respondent had asked for a cage car "I think one time." However, at his official interview, he stated that "I don't know how many times she asked" for a cage car and that "it could have been" more than once. (Tr. 169-170). As a result, I find that Castelli's trial testimony regarding whether his partner handcuffed the driver immediately after Rega ordered her to do so is less reliable than Williams' trial testimony.

Respondent's trial testimony that she did not curse at Rega has no independent support in the record since Castelli testified that he did not hear what Respondent said to Rega when she and Rega spoke on the street after Castelli had entered their RMP to safeguard the driver. Moreover, Respondent's own testimony shows that she had a motive to curse at Rega because she was angry at him for denying what she considered to be a reasonable request that he obtain a "cage car" for her and Castelli.

One of the recognized exceptions to the general rule that UMOS are required to “obey now and grieve later,” is situations where compliance with an order would threaten the health or safety of a UMOS. Respondent asserted that she did not hesitate or delay in complying with Rega’s order that she arrest and handcuff the driver immediately. However, Rega and Williams testified that as Respondent was delaying arresting the driver she repeatedly demanded a “cage car” because she was concerned about the driver’s spitting. This testimony raises the question of whether her delay in complying with Rega’s order was justified by a genuine threat to her health.

In a recent decision, *Case No. 2015-13870* (Sept. 13, 2016), a police officer was found not guilty of a charge that she had refused to comply with a sergeant’s order that she immediately resume patrol in her assigned RMP. The Trial Commissioner in that case found that the record contained sufficient credible evidence that the officer’s refusal was justified by the fact that her assigned RMP was infested with bed bugs. The Trial Commissioner credited the officer’s testimony that she had seen and swatted at bed bugs while she was inside the RMP and that she had suffered a red, itchy, bed bug bite on her hand. The Trial Commissioner also credited her partner’s testimony that he had agreed with her insistence that the sergeant assign them a different RMP.

That Respondent here had health concerns about the driver’s spitting is reflected by the fact that she called the desk officer to obtain an exposure number.² However, unlike the facts in the above-cited case, Respondent admitted that none of the driver’s spit came into contact with her skin and Respondent’s partner Castelli not only did not join her in demanding that Rega obtain a cage car for them, he entered the rear seating

² Pursuant to Patrol Guide Procedure No. 205-10.

area of their RMP and sat down next to the driver even though the driver was "drooling." Therefore, I find that the record here does not sufficiently establish that Respondent's delay in complying with Rega's order that she immediately arrest and handcuff the driver was justified by her health concerns regarding the driver's expiations.

In conclusion, as the supervisor at the scene, Rega had the right to insist that Respondent place the driver into her un-partitioned RMP, even if he was spitting as Respondent and Castelli claimed. Williams' testimony establishes that Respondent reacted to Rega's denial of her request for a "cage car" in a highly inappropriate manner, not only by delaying in complying with his order to handcuff the driver and place him into her RMP, but also by cursing at Rega.

Based on the above analysis, I find that the Assistant Department Advocate (the Advocate) met his burden of proving by a preponderance of the credible evidence that Respondent engaged in the charged misconduct. Therefore, Respondent is found guilty.

PENALTY RECOMMENDATION

In order to determine an appropriate penalty, Respondent's service record was examined. *See Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). Respondent was appointed as a police officer³ on September 29, 2000. Information from her personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum. Respondent has no prior disciplinary record.

Respondent has been found guilty of failing to immediately arrest and handcuff a driver as directed by a sergeant and being discourteous to the sergeant. The Advocate

³ Prior to her appointment as a police officer, Respondent served as a School Safety Agent.

recommended that Respondent forfeit 25 vacation days as a penalty to cover both charges. The Advocate did not cite any previous decisions to support this penalty recommendation.

In *Case No. 2014-12613* (May 27, 2015), a 19-year detective who had no prior disciplinary record forfeited 15 vacation days as a penalty after he pleaded guilty to having failed to take investigative actions as directed by his sergeant and then being discourteous to the sergeant when he was confronted with his failure to investigate by addressing the sergeant in an argumentative and profane manner.

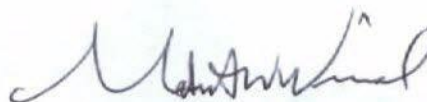
In three recent decisions where officers were found guilty solely of addressing sergeants in a discourteous manner, ten-day penalties were imposed on the officers. In *Case No. 2014-12605* (signed Nov. 19, 2015), an 11-year officer who had no prior disciplinary record forfeited ten vacation days as a penalty for speaking to a sergeant discourteously by, as here, telling the sergeant, "This is fucking bullshit!" In *Case No. 2013-10510* (signed March 26, 2015), a seven-year officer forfeited ten vacation days as a penalty for discourteously speaking to a sergeant in a loud voice and talking over the sergeant to prevent the sergeant from speaking. In *Case No. 2014-12180* (signed May 1, 2015), an officer who had been denied an emergency leave day by a sergeant forfeited ten vacation days as a penalty for speaking to the sergeant discourteously as he threw his uniform shirt and pants in the direction of the sergeant.

Most recently, in *Case No. 2015-14684* (signed Jan. 23, 2017), a ten-year officer who had no prior formal disciplinary record forfeited eight vacation days, and was placed on dismissal probation for one year, after he was found guilty of uttering discourteous, but non-profane, comments to his sergeant.

Since Respondent here is a 16-year officer who has no prior disciplinary record, not even a Command Discipline, her actions during this incident appear to be an aberration from the manner in which she has normally interacted with supervisors during her career.

Accordingly, I recommend that Respondent forfeit 20 vacation days as a penalty.

Respectfully submitted,



Robert W. Vinal
Assistant Deputy Commissioner Trials

APPROVED

OCT 16 2017



JAMES P. O'NEILL
POLICE COMMISSIONER

From: Assistant Deputy Commissioner Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER CHRISTINE NARSINGH
TAX REGISTRY NO. 927336
DISCIPLINARY CASE NO. 2014-12819

Respondent received an overall rating of 4.0 on her 2016 annual performance evaluation, 3.5 on her 2015 annual evaluation, and 3.5 on her 2014 annual evaluation. She has no medals. [REDACTED]

[REDACTED] She has no prior formal disciplinary adjudications and no Monitoring records.

For your consideration.



Robert W. Vinal
Assistant Deputy Commissioner Trials